



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2021-0066]

Agency Information Collection Activities; Renewal of an Approved Information Collection: Medical Qualification Requirements

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for review and approval. FMCSA requests approval to renew an ICR, titled “Medical Qualification Requirements,” and provides updated information for several of the information collections discussed. This ICR is needed to ensure that drivers, motor carriers, Medical Examiners (ME), and the States are complying with the physical qualification requirements of commercial motor vehicle (CMV) drivers. The information collected is used primarily to determine and certify driver medical fitness and must be collected in order for our highways to be safe. On May 6, 2021, FMCSA published a 60-day notice requesting comment on the renewal of this ICR. In response to this notice, two comments were received.

DATES: Please submit your comments by **[Insert date 30 days after the date of publication of this notice in the Federal Register]**. OMB must receive your comments by this date in order to act quickly on the ICR.

ADDRESSES: Comments and recommendations for the proposed information collection should be submitted within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by

selecting “Currently under 30-day Review - Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, Department of Transportation, Federal Motor Carrier Safety Administration, 6th Floor, West Building, 1200 New Jersey Avenue SE, Washington, DC 20590-0001. Telephone: (202) 366-4001. Email Address: fmcsamedical@dot.gov. Office hours are from 9:00 a.m. to 5:00 p.m., ET, Monday through Friday, except Federal Holidays.

SUPPLEMENTARY INFORMATION:

Title: Medical Qualification Requirements.

OMB Control Number: 2126-0006.

Type of Request: Renewal of a currently approved information collection.

Respondents: CMV drivers, motor carriers, Medical Examiners, testing centers, treating clinicians.

Estimated Number of Respondents: 6,225,262

Expiration Date: November 30, 2021

Estimated Total Annual Burden: 2,707,479 hours

This information collection is comprised of the following six information collection activities.

Physical Qualification Standards

2,144,680 annual burden hours

5,444,680 annual respondents

Resolution of Medical Conflict

11 annual burden hours

3 annual respondents

Medical Exemptions

2,529 annual burden hours

4,749 annual respondents

SPE Certificate Program

2,808 annual burden hours

2,567 annual respondents

National Registry of Certified Medical Examiners

556,797 annual burden hours

768,357 annual respondents

Qualification of Drivers; Diabetes Standard

654 annual burden hours

4,906 annual respondents

BACKGROUND: CMVs (trucks and buses) are longer, heavier, and more difficult to maneuver than automobiles, making them a threat to highway safety if not operated properly by qualified individuals. The public interest in, and right to have, safe highways requires the assurance that drivers of CMVs can safely perform the increased physical and mental demands of their duties. FMCSA's physical qualification standards provide this assurance by requiring drivers to be examined and medically certified as physically and mentally qualified to drive. Therefore, information used to determine and certify driver medical fitness must be collected. FMCSA is the Federal government agency authorized to require the collection of this information. FMCSA is required by statute to establish standards for the physical qualifications of drivers who operate CMVs in interstate commerce for non-excepted industries (49 U.S.C. 31136(a)(3) and 31502(b)). The physical qualification regulations relating to this information collection are found in the Federal Motor Carrier Safety Regulations (FMCSRs) at 49 CFR parts 390-399.

Below is a brief description of the included information collection activities and how the information is used.

Physical Qualification Standards

The FMCSRs at 49 CFR 391.41 set forth the physical qualification standards interstate CMV drivers who are subject to part 391 must meet, with the exception of commercial driver's license/commercial learner's permit (CDL/CLP) drivers transporting migrant workers (who must meet the physical qualification standards set forth in 49 CFR 398.3). The FMCSRs covering driver physical qualification records applicable to all drivers subject to part 391 are found at 49 CFR 391.43, which specifies that a physical qualification examination be performed on CMV drivers subject to part 391 who operate in interstate commerce. The results of examinations must be recorded on the Medical Examination Report (MER) Form, MCSA-5875. If the ME finds a driver is physically qualified to operate a CMV in accordance with 49 CFR 391.41, the ME must complete and furnish to the driver a Medical Examiner's Certificate (MEC), Form MCSA-5876. The provisions of 49 CFR 391.51 require that a motor carrier retain the MEC or, for CDL drivers, the Commercial Driver's License Information System (CDLIS) motor vehicle record, if it contains medical certification status, in the driver's qualification (DQ) file for 3 years. The MEC and CDLIS motor vehicle record affirm that the driver is physically qualified to operate a CMV in interstate commerce. With respect to drivers transporting migrant workers, 49 CFR 398.3 requires a motor carrier to retain in its files a copy of a doctor's certificate that affirms the driver has been examined in accordance with that section and determined to be physically qualified to operate a CMV.

Due to the potential for the onset of new conditions or changes in existing conditions that may adversely affect a driver's ability to safely operate a CMV and cause a risk to public safety, FMCSA requires drivers to be medically certified at least every 2 years. However, drivers with certain medical conditions must be certified more frequently than every 2 years. MEs have discretion to certify for shorter time periods on a

case-by-case basis for medical conditions that require closer monitoring or that are more likely to change over time.

MEs are required to maintain records of the CMV driver physical qualification examinations they conduct. FMCSA does not require MEs to maintain these records electronically. However, there is nothing to preclude an ME from maintaining electronic records of the medical examinations the ME conducts. FMCSA is continuously evaluating new information technology in an attempt to decrease the burden on motor carriers and MEs.

Less frequent collection of driver data, MER Forms, and MECs would compromise FMCSA's ability to determine ME compliance with FMCSA's requirements for performing CMV driver physical qualification examinations. This could result in MEs being listed on FMCSA's National Registry of Certified Medical Examiners (National Registry) who should be removed and possibly drivers who do not meet the physical qualification standards possessing an MEC. Less frequent data collection would also result in decreased validity of the data (i.e., less frequent data submission may increase the error rate due to unintentional omission of examination information). Therefore, less frequent collection of driver examination results is not an option.

Resolution of Medical Conflict

If two MEs disagree about the medical certification of a driver, the medical conflict provision provides a mechanism for drivers and motor carriers to request that FMCSA resolve the conflicting medical evaluations when either party does not accept the decision of a medical specialist. The requirements set forth in 49 CFR 391.47 mandate that the applicant (driver or motor carrier) submit a copy of a report including results of all medical testing and the opinion of an impartial medical specialist in the field in which the medical conflict arose. The applicant may choose to submit the information using fax or email. FMCSA uses the information collected from the applicant, including medical

information, to determine if the driver should be qualified. Without this provision and its incumbent driver medical information collection requirements, an unqualified person may be permitted to drive and qualified persons may be prevented from driving.

Medical Exemptions and the Skill Performance Evaluation (SPE) Certificate Program

FMCSA may, on a case-by-case basis, grant a medical exemption from a physical qualification standard set forth in 49 CFR 391.41. To do so, the Agency must determine the exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved by complying with the regulation. Without an exemption, individuals who do not meet the requirements in 49 CFR 391.41 would not be qualified to operate a CMV in interstate commerce. Section 381.300 establishes the procedures that persons must follow to request exemptions from the FMCSRs. The Agency requires all medical exemptions to be renewed every 2 years to ensure that the granting of the exemption does not diminish safety. Exemption holders are required to submit annual medical information for review to ensure the driver continues to meet the criteria for an exemption.

Individuals with loss or impairment of limbs are permitted to operate a CMV if they are otherwise physically qualified and are issued an SPE certificate by FMCSA. The SPE certificate must be renewed every 2 years by submitting a renewal application.

The application process for medical exemptions and SPE certificates provides for electronic collection of the application information by FMCSA for those applicants who choose to submit the information electronically. They may fax or scan and email documents to FMCSA. The Vision Exemption Program and the SPE Certificate Program maintain a database of application information. The Medical Programs Division maintains a database of application information for hearing and seizure exemptions.

FMCSA must collect medical information about the driver's medical condition in order to determine eligibility to receive a medical exemption or an SPE certificate. In the interest of highway safety, the medical examination, medical exemption renewal, and SPE certificate renewal should not be performed less frequently.

The National Registry of Certified Medical Examiners

The *National Registry of Certified Medical Examiners* final rule (77 FR 24104, Apr. 20, 2012) requires MEs who conduct physical qualification examinations for interstate CMV drivers to complete training concerning FMCSA's physical qualification standards, pass a certification test, and maintain competence through periodic training and testing, all of which require information collection. ME candidates submit demographic and eligibility data in order to register with the National Registry and begin the certification process. This data is used to provide the public with contact information for those healthcare professionals who are certified by FMCSA to conduct interstate CMV driver physical qualification examinations. Less frequent collection of ME candidate identity and eligibility information and test results could mean there are fewer MEs available to perform physical qualification examinations and to meet the needs of the CMV driver and motor carrier population. This could place a burden on drivers and motor carriers. Therefore, less frequent collection of ME candidate identity and eligibility information and test results is not an option.

MEs are required to transmit to FMCSA via the National Registry results of any CMV driver physical qualification examinations completed by midnight (local time) of the next calendar day following the examination. The reporting of results includes all CMV drivers (CDL/CLP and non-CDL/CLP) who are required to be medically certified to operate in interstate commerce and allows, but does not require, MEs to transmit any information about examinations performed in accordance with the FMCSRs with any applicable State variances, which will be valid for intrastate operations only. Less

frequent collection of driver data would compromise FMCSA's ability to determine ME compliance with FMCSA requirements for performing CMV driver physical qualification examinations. This could result in MEs being listed on the National Registry who should be removed and possibly drivers who do not meet the physical qualification standards possessing an MEC. Less frequent data collection would also result in decreased validity of the data (i.e., less frequent data submission may increase the error rate due to unintentional omission of examination information). Therefore, less frequent collection of driver examination results is not an option.

The National Registry final rule also requires motor carriers to verify the National Registry number of the MEs who certify their drivers and place a note in the DQ file. Less frequent verification of the National Registry numbers by motor carriers could mean drivers may not have been examined by an ME listed on the National Registry and may not meet the physical qualifications standards of the FMCSRs.

As a follow-on rule to the National Registry final rule, the *Medical Examiner's Certification Integration* final rule (80 FR 22790, Apr. 23, 2015), modified several of the requirements adopted in the National Registry final rule, some of which had a scheduled compliance date of June 22, 2018. Specifically, it requires (1) FMCSA to electronically transmit from the National Registry to the State Driver's Licensing Agencies (SDLAs) the driver identification information, examination results, and restriction information from examinations performed for holders of CLPs/CDLs (interstate and intrastate); (2) FMCSA to transmit electronically to the SDLAs the medical variance information for all CMV drivers; and (3) SDLAs to post the driver identification, examination results, and restriction information received electronically from FMCSA.

However, as the *Medical Examiner's Certification Integration* final rule compliance date approached, FMCSA concluded that the information technology infrastructure necessary to implement the portions of the final rule that required the

electronic transmission of data would not be available on June 22, 2018. Accordingly, on June 21, 2018, FMCSA published a notice extending the compliance date for several of the provisions in the *Medical Examiner's Certification Integration* final rule to June 22, 2021 (83 FR 28774).

As the June 22, 2021 compliance date approached, FMCSA again concluded that additional time was needed for FMCSA to complete certain information technology system development tasks for its National Registry and to provide the SDLAs sufficient time to make the necessary information technology programming changes after the new National Registry system is available. Accordingly, on June 22, 2021, FMCSA amended its regulations to extend the compliance date from June 22, 2021, to June 23, 2025, for several provisions of its *Medical Examiner's Certification Integration* final rule (86 FR 32643). Since the compliance date for these provisions will be extended until June 23, 2025, the annual burden hours and costs are not covered as part of this ICR.

Qualifications of Drivers; Diabetes Standard

As a result of the September 19, 2018, *Qualifications of Drivers; Diabetes Standard* final rule (83 FR 47486), the FMCSRs were amended to permit drivers with a stable insulin regimen and properly controlled insulin-treated diabetes mellitus (ITDM) to operate CMVs in interstate commerce. An individual with ITDM can obtain an MEC from an ME for up to a maximum of 12 months. To do so, the treating clinician, the healthcare professional who manages, and prescribes insulin for, the treatment of the individual's diabetes must complete the Insulin-Treated Diabetes Mellitus Assessment Form, MCSA-5870, and attest to the ME that the individual maintains a stable insulin regimen and proper control of the individual's diabetes. The ME must review the form and determine the individual meets FMCSA's ITDM standard and other physical qualification standards. The information collection is necessary to ensure drivers meet

these standards. FMCSA allows treating clinicians and drivers to provide the form to MEs, if they choose to do so, using electronic communication such as fax or email.

Comments to the 60-Day Notice

On May 6, 2021, FMCSA published a 60-day notice (86 FR 24433) requesting comment on the renewal of this ICR. In response to the notice, comments were received from the National School Transportation Association (NSTA) and the U.S. Equal Employment Opportunity Commission (EEOC). NSTA commented that it was in support of the renewal of this information collection. The EEOC suggested that FMCSA consider revising the requests for medical information on the MER Form to focus on medical conditions and medications that may interfere, are likely to interfere, or do interfere with individuals' ability to control, drive, or otherwise operate a CMV safely. It also suggested that that FMCSA consider narrowing the length of time that certain medical issues must be reported. In addition, it provided other comments regarding information on FMCSA's website that were not related to information collection activities or the renewal of this ICR. Those comments will be considered by FMCSA outside of this ICR renewal process.

Regarding the EEOC's suggestions for the MER Form, the information collected in the driver health history section of the MER Form is relevant and necessary to obtain a full health history from the driver. The information obtained facilitates the completion of a thorough examination by the ME. An ME needs all pertinent information to make an appropriate assessment of whether the driver meets the physical qualifications standards. FMCSA emphasizes that the driver health history questions are linked to the physical qualification standards set out in 49 CFR 391.41(b). Most of the standards are worded broadly because many medical conditions may interfere with an individual's ability to operate a CMV safely. Therefore, it is not in the interest of safety for FMCSA to provide less information to the ME.

PUBLIC COMMENTS INVITED: You are asked to comment on any aspect of this information collection, including: (1) whether the proposed collection is necessary for FMCSA to perform its functions; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information.

Issued under the authority delegated in 49 CFR 1.87.

Thomas P. Keane,
Associate Administrator,
Office of Research and Registration.

[FR Doc. 2021-22285 Filed: 10/13/2021 8:45 am; Publication Date: 10/14/2021]